

UNITED STATES OF AMERICA,  
  
  
Plaintiff,  
  
vs.  
  
ADAM E. BILLINGS,  
  
  
Defendant.

APPEARANCES:  
FOR THE PLAINTIFF: MR. NHAN D. NGUYEN  
UNITED STATES ATTORNEY'S OFFICE  
901 St. Louis Street, Ste. 500  
Springfield, MO 65806

FOR THE DEFENDANT: MR. IAN A. LEWIS  
FEDERAL PUBLIC DEFENDER OFFICE  
901 St. Louis Street, Ste. 801  
Springfield, MO 65806

COURT REPORTER: MS. JEANNINE RANKIN, RPR, CSR  
UNITED STATES DISTRICT COURT  
222 N. Hammons Parkway  
Springfield, MO 65806

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USA v ADAM E. BILLINGS

CASE NO. 17-CR-3020-MDH-1

CHANGE OF PLEA

October 24, 2017

\* \* \* \* \*

THE COURT: We are here in United States versus Adam Billings. Who will be appearing on behalf the United States?

MR. NGUYEN: Nhan Nguyen on behalf the United States, Your Honor.

THE COURT: And on behalf the defendant?

MR. LEWIS: Ian Lewis for the defense, Your Honor.

THE COURT: Mr. Billings, would you stand.

THE DEFENDANT: Yes, sir.

THE COURT: My name is Doug Harpool. I'm the federal district judge that has responsibility for your case. It's my job to make sure we follow the proper rules and procedures and that you get all the rights to which you're entitled.

I have been -- I know that previously you filed -- entered a plea of not guilty and under the laws of our country that means you're presumed innocent. That can only change if either you go to a jury trial and the jury finds you guilty, waive jury and I find you guilty, or if you just admit you're guilty. And it's not unusual for people to change their plea.

I've been advised that your lawyer and you have

1 negotiated a plea agreement with the government where you  
2 would admit your guilt. In order for me to allow you to do  
3 that, I have to make sure that the circumstances surrounding  
4 it are appropriate and that you've been properly advised of  
5 your rights.

6 Do you understand that's why we're here?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, because I have to make findings on  
9 the record, I have to receive evidence to serve as the basis  
10 for my findings. So I'm going to place you under oath and I'm  
11 going to ask you questions and you'll be the evidence that I  
12 receive. Understand, you don't have to answer my questions.  
13 False answers could get you in trouble so don't give false  
14 answers. If you don't understand what's going on at any time  
15 or don't understand a question, just tell me; I'll rephrase  
16 the question. We can even give you a few minutes to talk to  
17 your lawyer if you have questions you want to ask him about.  
18 Okay?

19 THE DEFENDANT: Okay.

20 THE COURT: Raise your right hand.

21 (Defendant duly sworn by the Court.)

22 THE COURT: State your full name for the record.

23 THE DEFENDANT: Adam Eugene Billings.

24 THE COURT: How old are you?

25 THE DEFENDANT: Forty-three years old.

1 THE COURT: What's your educational background?

2 THE DEFENDANT: Got a GED, some college, a couple --

3 THE COURT: Can you read and write?

4 THE DEFENDANT: Yes, I can, sir.

5 THE COURT: I have in front of me a written plea  
6 agreement and on page 14 of that agreement your name is typed  
7 and there's a signature above your typed name. Is that your  
8 signature?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And it's dated October 24, 2017. Is  
11 that when you signed it?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Prior to signing it did you read the  
14 agreement?

15 THE DEFENDANT: Yes, I did.

16 THE COURT: Did you have the opportunity to discuss  
17 it with your lawyer?

18 THE DEFENDANT: Yes, I did.

19 THE COURT: Did you have time to ask him all the  
20 questions about the plea agreement that you had?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Prior to entering in the plea agreement  
23 did you talk to your lawyer about the strengths and weaknesses  
24 of the government's case against you?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Did you talk to him about the possible  
2 consequences if you're guilty of this crime?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Did he talk to you about some of the  
5 advantages and disadvantages of going to trial versus  
6 admitting your guilt, things like that?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you feel you've had enough time with  
9 your lawyer to ask all those questions concerning this  
10 important decision?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Mr. Lewis, have you had sufficient  
13 discovery from the government you feel you're in a position to  
14 properly advise your client?

15 MR. LEWIS: Yes, Your Honor.

16 THE COURT: Do you feel you've had enough time with  
17 your client to discuss these issues?

18 MR. LEWIS: Yes, Your Honor.

19 THE COURT: Mr. Billings, one of the findings I have  
20 to make in this hearing pertains to your competency to enter  
21 into this decision. Do you believe you're competent to make  
22 this decision for yourself?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Are you under the influence of any  
25 alcohol?

1 THE DEFENDANT: No, sir.

2 THE COURT: Any street drug?

3 THE DEFENDANT: No, sir.

4 THE COURT: Any prescription medication?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you suffer any mental illness?

7 THE DEFENDANT: No, sir.

8 THE COURT: Now, your plea of guilty pertains to a  
9 drug crime.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: So I want to make sure of a few things.  
12 One is, is anybody pressuring you or trying to force you or  
13 coerce you into changing your plea by some type of threat  
14 against you or someone you care about?

15 THE DEFENDANT: No, sir.

16 THE COURT: Is anyone -- or has anyone made any  
17 promises to you to try to entice you to admit guilt by doing  
18 something favorable for you or someone you care about?

19 THE DEFENDANT: No, sir.

20 THE COURT: Have you made any agreement to take the  
21 fall for what somebody else did?

22 THE DEFENDANT: No, sir.

23 THE COURT: Is the decision to enter into this plea  
24 agreement one that you've come to objectively and personally?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: It is what you think is in your best  
2 interest?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: The crime that you're accused of or that  
5 you would be pleading guilty to if I accept this guilty plea  
6 is a violation of 21 U.S.C. 841(a)(1) and (b)(1)(A). That's  
7 possession with intent to distribute 500 grams or more of  
8 methamphetamine.

9 Do you understand that if you enter this agreement  
10 that you're admitting that you knowingly committed that  
11 offense and that you are guilty of that offense?

12 MR. LEWIS: Your Honor, I'm sorry. I believe the  
13 plea agreement reads 50 grams or more of methamphetamine.

14 THE COURT: I'm sorry. Did I misread it? Let me  
15 try again.

16 The crime that you would be admitting to is  
17 possession with intent to distribute 50 grams or more of  
18 methamphetamine actual.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. If I accept this plea  
21 agreement, you're admitting that you committed that crime.

22 THE DEFENDANT: Yes, sir. Yes, sir.

23 THE COURT: All right. The penalty for that  
24 crime -- or I should say the authorized penalty for that  
25 crime, the minimum sentence is ten years while the maximum is

1 life in prison. The supervised release following imprisonment  
2 would be not less than five years, it could be as long as the  
3 rest of your life. A fine could be as much as \$10 million,  
4 and then there would be a \$100 mandatory special assessment.  
5 It's a Class A felony.

6 Are you aware that if you admit this crime that that  
7 is the penalty you're facing?

8 THE DEFENDANT: Yes, sir.

9 MR. LEWIS: Your Honor, if I may?

10 THE COURT: Yeah.

11 MR. LEWIS: I know that the government filed a  
12 withdrawal of the 851 enhancement yesterday. I don't know if  
13 we wanted to --

14 THE COURT: That's a good point to do that.

15 Does the government want to be heard on that motion  
16 or you want me to go ahead and rule on it?

17 MR. NGUYEN: No, Your Honor. We stand on the  
18 motion.

19 THE COURT: Okay. We'll sustain that motion.

20 MR. LEWIS: Thank you, Your Honor.

21 THE COURT: Do you need another minute?

22 MR. LEWIS: No, Your Honor.

23 THE COURT: All right. If you are guilty, I accept  
24 a guilty. Then within that authority I've just told you  
25 about, your sentencing judge will make the decision on what



1 your sentence should be. I'm right now scheduled to be your  
2 sentencing judge.

3           The sentencing procedures that I'll use is I'll look  
4 at the factors from Title 18, Section 3553(a), and that starts  
5 with a look at the U.S. Sentencing Guidelines and what those  
6 guidelines suggest for a sentence for you. Those guidelines  
7 are not mandatory; they're advisory. So you understand your  
8 sentence could be above or below that guideline based on what  
9 I believe is appropriate under the law given all the factors  
10 to consider? You understand that?

11           THE DEFENDANT: Yes.

12           THE COURT: I assume you've had some discussion with  
13 the lawyer about sentencing guidelines and possible sentences,  
14 that type of thing?

15           THE DEFENDANT: Some, yes.

16           THE COURT: I'm sure he's given you the very best  
17 estimate possible as to what he thinks the guidelines may end  
18 up being. What's important for you to know is that he can't  
19 know for sure. He doesn't have information to know for sure.  
20 And he doesn't know how I may rule on some issues. So the  
21 best he can give you at this time is his estimate; you  
22 understand that?

23           THE DEFENDANT: Yes, sir.

24           THE COURT: What's more important is we don't even  
25 know that your sentence will end up being within those

1 guidelines. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Now, in federal court we  
4 have no bail -- I mean, we have no parole. Excuse me. And  
5 that means that once you get a sentence you should expect to  
6 serve the whole sentence, not just a tiny fraction of it like  
7 we do in some state sentences. You understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Your sentence will include a period of  
10 supervised release. That's after you've done whatever prison  
11 term you get. A period of time -- in your case it could be  
12 very lengthy, the rest of your life -- where you'll have rules  
13 you'll have to follow and guidelines, and failure to follow  
14 those rules could end up in punishment that could include  
15 going back to prison. You understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, today my decision that I need to  
18 make is whether I'm going to accept this plea agreement. On a  
19 future date, then we'll have more information and make a  
20 decision on what your sentence should be. What I want to make  
21 sure you understand today is that if you're disappointed later  
22 with what your sentence is, that wouldn't be an excuse for you  
23 to try to get out of the plea agreement you're entering today.

24 THE DEFENDANT: I understand that, sir.

25 THE COURT: Now, you have a right to a jury trial to

1 determine your guilt. Part of the record I'd like to make is  
2 I'd like to make sure you understand what that jury trial  
3 would be like. The jury trial would have 12 jurors. All 12  
4 would have to unanimously conclude that you're guilty or you  
5 wouldn't be guilty in the eyes of the law. The burden to  
6 prove that guilt beyond a reasonable doubt would be on the  
7 government, not on you; you'd have no burden. In fact, your  
8 lawyer would have a right to cross-examine, impeach and  
9 confront every item of evidence that the government presented  
10 against you. And a lawyer would be presented for you and a  
11 lawyer could present evidence on your own behalf, you wouldn't  
12 have to present any evidence. And while you could testify if  
13 you wanted to in your own defense, you couldn't be forced to.  
14 If you wanted to remain silent, that would be something that  
15 you could do. I'd protect that right. I'd even instruct the  
16 jury not to draw an adverse inference against you.

17           You understand all those rights about a jury trial?

18           THE DEFENDANT: Yes, I do.

19           THE COURT: Obviously, if at a trial I made a  
20 mistake on a ruling of law or evidence, you'd get to appeal to  
21 a higher court and contest my rulings. You understand that?

22           THE DEFENDANT: Yes, sir.

23           THE COURT: Now, if I accept this plea agreement,  
24 your guilt in the eyes of the law will be affixed so there  
25 won't be any jury trial and you'll effectively be waiving all

1 those rights to jury trial that I just discussed. You  
2 understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Also in your agreement not only would  
5 you be not taking advantage of jury trial but you would also  
6 be waiving in Paragraph 15 certain appellate and  
7 post-conviction rights. In other words, you'd be agreeing  
8 that you're not going to appeal certain things and that you're  
9 not going to file a lawsuit later challenging certain things.

10 Are you aware that that's part of this agreement?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: If you would look at page 2, Paragraph 3  
13 of the agreement. There's a single-spaced series of  
14 paragraphs called Factual Basis for Guilty Plea. Before a  
15 judge can accept a guilty plea, I have to believe there's  
16 evidence which is sufficient that if you went to trial that  
17 you could be found guilty. In other words, the jury, if they  
18 believed the evidence presented by the government, it would be  
19 enough to find you guilty. This is what the government thinks  
20 that they could prove if they went to trial. Have you read  
21 carefully Paragraph 3 of the plea agreement?

22 THE DEFENDANT: Yes, sir, I have.

23 THE COURT: Had a chance to go over it with your  
24 lawyer?

25 THE DEFENDANT: Yes, sir, I have.

1 THE COURT: This is important because it could  
2 affect those guidelines we talked about earlier. Of course,  
3 it's also necessary to establish for me to accept your guilty  
4 plea.

5 Anything in Paragraph 3 that you think is inaccurate  
6 in any way?

7 THE DEFENDANT: No, I don't think so.

8 THE COURT: Does it correctly describe your conduct?

9 THE DEFENDANT: Yes, I believe so.

10 THE COURT: All right.

11 Anything further under Rule 11 the government  
12 wants me to cover?

13 MR. NGUYEN: No, Your Honor. Thank you.

14 THE COURT: Mr. Lewis, anything further?

15 MR. LEWIS: No, Your Honor.

16 THE COURT: All right. Mr. Billings, I've asked you  
17 all the questions I needed to ask you. I've reminded you of  
18 some of your rights and some of the consequences you're  
19 facing. Do you still believe entry into this plea agreement  
20 is what's in your best interest?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you still want to plead guilty to the  
23 crime of possession with intent to distribute 50 grams or more  
24 of methamphetamine actual?

25 THE DEFENDANT: Yes, sir.

1           THE COURT: Is that because you are guilty of that  
2 crime?

3           THE DEFENDANT: Yes, sir.

4           THE COURT: The Court finds that the defendant is  
5 competent to have entered into the plea agreement and to enter  
6 the guilty plea contained in the plea agreement and  
7 participate in this hearing. The Court finds that the guilty  
8 plea has been entered into by this defendant understandingly,  
9 knowingly, and voluntarily, as has the plea agreement. The  
10 Court finds that the guilty plea contained in the plea  
11 agreement and the plea agreement itself has been entered into  
12 after the defendant received full, competent and capable  
13 services and advice of legal counsel and after the defendant  
14 has been fully advised of the consequences of entering into  
15 the guilty plea. The Court finds there is a factual basis for  
16 the guilty plea contained in the plea agreement. The Court  
17 accepts the plea agreement, approves the plea agreement and in  
18 particular accepts the defendant's plea of guilty contained in  
19 the plea agreement. The Court orders a presentence  
20 investigation to be prepared.

21           Mr. Billings, what will happen now is a presentence  
22 investigation report will be written. You and your lawyer  
23 will have the right to have input both as it's written and  
24 then when it's done. If you think there are errors, you get  
25 to file objections. If those can't be resolved with the

1 probation office, then on the day of your sentencing I'll rule  
2 and make a finding about those objections.

3           Next time we expect to see you in court will be on  
4 the day of your sentencing. That will be on a future date but  
5 I can't tell you exactly when because we don't know how long  
6 this process will take in terms of writing the report.

7           On the day of your sentencing I'll remind you of  
8 what the authorized sentence is by the Congress. We will  
9 adopt your sentencing guideline according to the sentencing  
10 guideline booklet what your guideline sentence is. But then  
11 we'll listen to arguments of whether that's an appropriate  
12 sentence for you because I said your end-up sentence could be  
13 above or below the guideline looking at lots of factors  
14 including those in Title 18, Section 3553(a) and whether or  
15 not I should depart or vary from that guideline.

16           After the lawyers have had all their say on the  
17 issues I've just mentioned, I will give you a chance to say  
18 something at your sentencing hearing, if you want to. You  
19 don't have to. But if you are going to say something,  
20 obviously give it lots of thought and discuss it with your  
21 lawyer before the sentencing hearing so he has an idea what  
22 you plan on saying and so that you can get the benefit of his  
23 advice about how best to phrase things and what's best said  
24 and what's best left unsaid. Okay?

25           THE DEFENDANT: Okay. Thank you, sir.

1           THE COURT: Anything further on behalf the  
2 government?

3           MR. NGUYEN: No, Your Honor. Thank you.

4           THE COURT: Anything further on behalf the  
5 defendant?

6           MR. LEWIS: No, Your Honor. Thank you.

7           THE COURT: You'll go back to the custody of the  
8 marshals and stay at whatever local facility you've been in  
9 under their custody. Ultimately, you understand that when you  
10 receive your final sentence you'll be transferred to an  
11 institution run by the Bureau of Prisons?

12           THE DEFENDANT: Yes, sir.

13           THE COURT: All right.

14           Be in recess.

15           (Court stands in recess at 2:48 p.m.)

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CERTIFICATE OF OFFICIAL REPORTER

I, Jeannine M. Rankin, Federal Official Court Reporter,  
in and for the United States District Court for the Western  
District of Missouri, Southern Division, do hereby certify  
that the foregoing is a true and correct transcript of the  
stenographically reported proceedings.

/s/ Jeannine M. Rankin

Date: 06/20/18 Jeannine M. Rankin, CCR, CSR, RPR